

**Remarks/Arguments**

Claims 1 and 6-17 are pending in the application. Claim 1 has been amended. Claims 6 and 7 have been cancelled. Reconsideration and reexamination are requested.

Claim 1 has been amended to recite that the outer layer is elastomeric having a first hardness on the Shore A scale of about 40A to 90A, and that the elastomeric material is selected from the group consisting of natural rubber, polyurethane rubber and thermoplastic elastomer. Support can be found at paragraph [0018] and [0023] of the published application. No new matter has been entered.

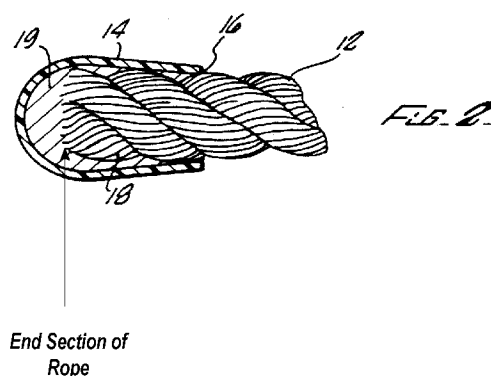
Claim 1 has also been amended to recite that the end piece having the raised ridge section has a hardness on the Shore D scale of about 50D to 90D. Support can again be found at paragraph [0018] of the published application. No new matter has been entered.

Claim 1 has also been amended to recite “an end piece including a raised ridge section and having a hardness that is greater than the first hardness, the end piece engaging said outer layer of said body portion, wherein said raised ridge section of said end piece overlies and protects said edge section of said body portion from contact with said animal during said chewing via said raised ridge section, wherein the end piece includes an opening, wherein said body portion having first and second end sections is received in said opening and wherein said opening in said end piece defines a diameter  $d_1$ , and said body portion having a first and second end section defines a diameter  $d_2$  at said first and second end section, and  $d_1 < d_2$ , wherein said body portion having a first and second end section with an edge thereof is engaged in said opening in said end piece, and wherein said opening compresses upon said end section when said edge section is engaged with said opening.” The references to “configured to engage with” have been removed to clarify the claimed subject matter.

Accordingly, the end section with an edge is engaged in the opening and the end piece essentially conceals the edge section. Support may be found at page 8 lines 20-23 which recite “[t]he shank **12** and end pieces **14, 16** are assembled by fitting each end of the shank **12** in to one of the respective end piece **14, 16**. The ends of the shank **12** are received in the openings **24** of the end pieces **14, 16** so that the end piece **14, 16** overlies at least partially, and preferably completely, the ends **19** of the shank **12**.” No new matter has been entered.

As an initial matter, in response to the Examiner's comments in item 2 of the Office Action, the end section of O'Rourke (see **FIG. 2** approximate reference numeral **19**) *does not engage* with the *opening 16* but is located well within the end member **14**. In addition, O'Rourke does not teach or suggest that "the raised ridge section of said end piece *overlies* and protects said edge section of said body portion" as recited in claim 1. [Applicant understands that the Office Action already admits of this deficiency of O'Rourke but avers that it is made up by the secondary reference of Kaplan, which is more fully addressed below.] **FIG. 2** of O'Rourke clearly shows that the raised ridge section of the end member (at **16**) *does not overlie* the edge section (approximate reference numeral **19**) of the rope. In contrast, in the present application, the end of the shank **12** is fitted into the opening **24** in the end pieces **14, 16** in a *compression fit* wherein the diameter of the shank,  $d_2$ , is greater than the diameter of the opening  $d_1$ .

In addition, Applicant maintains that **FIG. 2** of O'Rourke does *not* clearly illustrate a compression fit (the diameter of the rope is not smaller than the inside of the end member at **16**). Instead, an adhesive is required, which is discussed more fully below.



Regarding item 3 of the Office Action, the Examiner may notice that claim 1 has been amended to the language "consisting of." This then is believed to clearly eliminate a reading of the claim on O'Rourke, who requires the use of an adhesive 19 to engage the end member 14 to the shaft 12.

On that note, and as correctly recognized in the Office Action of September 8, 2008 at page 3, at least one novel feature of the present invention was directed to the feature of no exposed edge thereby limiting damage to the chew toy. The specification also clearly points out that the opening of the end piece has a diameter  $d_1$  and the end section of the body portion has a diameter  $d_2$  and in such manner a tension fit is produced as between the end piece and the body portion. See paragraph 0016 of the published application. The specification makes clear that no other attachment mechanism is required, such as the adhesive in O'Rourke. Reflecting then on the currently amended claim, the use of the phrase "consisting of" and the ensuing recitation of the relative diameter features within the claim, as well as the recitation within the claim that the opening compresses upon the end section, is believed to now present a patentable distinction over the cited reference, which clearly requires an adhesive.

Claims 1, 6-15 and 17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over O'Rourke (US 5,174,243) in view of Kaplan (US D453,242).

Kaplan, in view of the amendments herein, is not believed to make up for the deficiencies of O'Rourke. Kaplan is a design patent, and there is no recitation or guidance as to aspects of using an elastomeric material for a body portion with hardness on the Shore A scale and the use of end pieces with hardness on the Shore D scale. Similarly, there is no disclosure or suggestion that when utilizing an elastomeric material with an exposed edge, and the use of a body portion with a relatively harder raised ridge, one may in fact provide the novel feature of no exposed edge thereby limiting damage to the chew toy.

In fact, looking back at the Office Action of September 8, 2008, at page 4, it was suggested that O'Rourke disclosed an outer layer of the body portion as comprising an elastomer. It is not seen how this can be the case, as O'Rourke discloses that the body portion is "flexible rope" such as "cotton." See, column 2, lines 7-8 of O'Rourke. Accordingly, while the reference to "flexible rope" may be understood by one skilled in the art as a rope that flexes, it does to lead to the disclosure of an elastomeric material with the Shore hardness characteristics as now specified in amended claim 1.

With regard to item 6, the Office Action also suggests that O'Rourke discloses an animal chew (10) comprising a body portion (12) having a rigid supporting core (i.e. provided by the interweaving of the individual body sections). O'Rourke discloses a shaft portion of "a flexible

rope configuration” (as noted above) and is actually silent regarding any sort of core. **FIG. 4** of O’Rourke clearly indicates that the rope does not have “an outer layer and a rigid supporting core” as recited in claim 1. See below.

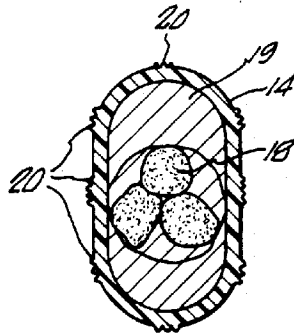


FIG. 4

Accordingly, it is submitted that the present application, as recited in amended claim 1, includes features not taught, suggested or disclosed by the cited references, namely

- a body portion including an outer layer and a rigid supporting core;
- a body portion including an outer layer of elastomeric material on the Shore A scale of 40A to 90A selected from natural rubber, polyurethane rubber or thermoplastic elastomer;
- an end piece with a raised ridge section having a Shore D hardness of 50D to 90D;
- a raised ridge section of the end piece that overlies the edge section of the body portion;
- wherein the opening in the end piece defines a diameter  $d_1$ , and the body portion having a first and second end section defines a diameter  $d_2$  at said first and second end section, and  $d_1 < d_2$ ;
- an elastomeric outer layer of the body portion engaged in the opening in the end piece where the opening compresses upon the end section, without the use of adhesive (i.e. the feature that the claim has been amended to recite “consisting of”)

Appln. No. 10/643,168  
Amndt. E dated Dec. 8, 2008  
Reply to Office Action of Sept. 8, 2008

Dependent claims 6-17 depend directly or indirectly from independent claim 1 and are believed to be similarly distinguished.

It is therefore submitted that the rejection of claims 1 and 8-17 under 35 U.S.C. § 103(a) has been overcome.

In consideration of the amendments to the claims and the remarks hereinabove, Applicant respectfully submits that all claims currently pending in the application are believed to be in condition for allowance. Allowance at an early date is respectfully solicited.

In the event the Examiner deems personal contact is necessary, please contact the undersigned attorney at (603) 668-6560.

In the event there are any fee deficiencies or additional fees are payable, please charge them (or credit any overpayment) to our Deposit Account No. 50-2121.

Respectfully submitted,

/ Steven J. Grossman/

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Steven J. Grossman  
Attorney for Applicant  
Reg. No.: 35,001  
Customer No. 32047  
Tele: 603.668.6560